IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

Tax Case Appeal No.984 of 2015

M/s.Vishnu Lakshmi Mills Pvt. Ltd.,
1C, Gleneden Place,
310, Poonamallee High Road,
Kilpauk,
Chennai - 600 010. ...Appellant/Appellant

Vs.

The Deputy Commissioner of Income-Tax,
Company Circle-III (4),
121, Nungambakkam High Road,
Chennai - 600 034. ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 19.08.2015 passed in I.T.A.No.2206/Mds/2014 preferred against the order of the Commissioner of Income Tax (Appeals) III, Chennai in I.T.A.Nos.1101/2013-2014 dated 19.06.2014 filed against the Assessment order of the Deputy Commissioner of Income Tax, Company Circle III(4), Chennai 34 dated 30.11.2010 for the Assessment year 2008-2009.

For Appellant : Mr.G.Baskar
for M/s.S.Sriniranjani

For Respondent : Mr.M.Swaminathan
Senior Standing Counsel

J U D G M E N T
(Delivered by M. DURAISWAMY, J)

The appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order, dated 19.08.2015, passed by the Income Tax Appellate Tribunal, Madras "B" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.2206/Mds/2014 for the Assessment Year 2008-09. The above appeal was admitted on 16.10.2015 on the following Substantial Questions of Law:

"1.Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in holding that the expenditure incurred by the appellant of an amount of Rs.41,54,811/- is capital in nature and liable to be disallowed?

2.Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in noting that the expenditure incurred by the appellant on replacement of components for carding and roving machines and ring frames is revenue in nature and liable to be allowed in its computation of income?"

2. We have heard Mr.G.Baskar, learned counsel for the appellant/ assessee and Mr.M.Swaminathan, learned Senior Standing Counsel for the respondent/Revenue.

3. It may not be necessary for this Court to decide the Substantial Questions of Law framed for consideration on account of certain subsequent developments. The Government of India enacted the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17th March 2020 and published in the Gazette of India on 17th March 2020.

4. We are informed by the learned counsel for the appellant/assessee that the assessee has already filed the requisite Forms 1 & 2 on 17.12.2020 under Section 4 of the Act.

5. In the light of the fact that the assessee has already availed the benefit under the Act, no useful purpose would be served in keeping the appeal pending. At the same time, safeguarding the interest of the assessee in the event the order to be passed by the Department under the Act is not in favour of the assessee. Accordingly, the Tax Case Appeal stands disposed of on the ground that the assessee has already filed the requisite Forms 1 & 2 and the Department shall process the application at the earliest in accordance with the said Act and communicate the decision to the assessee at the earliest. As observed, the assessee is given liberty to restore the appeal in the event the ultimate decision to be taken on the declaration filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration

of the appeal and on such request made by the assessee by filing a Miscellaneous Petition for Restoration, the Registry shall place such petition before the Division Bench for orders.

6. With this observation, the Tax Case Appeal stands disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Madras "B" Bench

2.The Deputy Commissioner of Income-Tax,
Company Circle-III (4),
121, Nungambakkam High Road,
Chennai - 600 034.

+1 Cc to Mr.M. Swaminathan, Advocate sr 25236.

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RSI(CO)
SP(29/06/2021)